

Attorney Docket No.

MERCHANT & GOULD P.C.

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:
INFORMATION RECORDING MEDIUM AND METHOD FOR PRODUCING THE SAME, AND OPTICAL INFORMATION RECORDING AND REPRODUCING APPARATUS

The specification of which

a. is attached hereto
b. was filed on _____ as application serial no. _____ and was amended on _____ (if applicable) (in the case of a PCT-filed application) described and claimed in international no. PCT/JP2003/011172 filed on September 1, 2003 and as amended on _____ (if any), which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

a. no such applications have been filed.
b. such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
Japan	2002-301601	16 October 2002	

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I acknowledge the duty to disclose information that is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (reprinted below):

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Ali, M. Jeffer	Reg. No. 46,359	Lauer, Deakin T.	Reg. No. 47,892
Altera, Allan G.	Reg. No. 40,274	Leach III, Thomas J.	Reg. No. P-53,188
Anderson, Gregg I.	Reg. No. 28,828	Leonard, Christopher J.	Reg. No. 41,940
Batzli, Brian H.	Reg. No. 32,960	Lewis, George C.	Reg. No. 53,214
Beard, John L.	Reg. No. 27,612	Liepa, Mara E.	Reg. No. 40,066
Berns, John M.	Reg. No. 43,496	McDonald, Daniel W.	Reg. No. 32,044
Blackburn, Murrell W.	Reg. No. 50,881	McIntyre, Jr., William F.	Reg. No. 44,921
Bortolotti, Rebecca	Reg. No. 51,488	Mueller, Douglas P.	Reg. No. 30,300
Branch, John W.	Reg. No. 41,633	Nelson, Anna M.	Reg. No. 48,935
Brown, Jeffrey C.	Reg. No. 41,643	Parsons, Nancy J.	Reg. No. 40,364
Bruess, Steven C.	Reg. No. 34,130	Pauly, Daniel M.	Reg. No. 40,123
Byrne, Linda M.	Reg. No. 32,404	Peterson, Kyle T.	Reg. No. 46,989
Campbell, Keith	Reg. No. 46,597	Phillips, John B.	Reg. No. 37,206
Clifford, John A.	Reg. No. 30,247	Pino, Mark J.	Reg. No. 43,858
Cook, Jeffrey	Reg. No. 48,649	Qualey, Terry	Reg. No. 25,148
Daignault, Ronald A.	Reg. No. 25,968	Randall, Joshua N.	Reg. No. 50,719
Daley, Dennis R.	Reg. No. 34,994	Reich, John C.	Reg. No. 37,703
Daley, William J.	Reg. No. 52,471	Reiland, Earl D.	Reg. No. 25,767
Daulton, Julie R.	Reg. No. 36,414	Roath, Paul D.	Reg. No. 45,045
DeVries Smith, Katherine M.	Reg. No. 42,157	Schmaltz, David G.	Reg. No. 39,828
DiPietro, Mark J.	Reg. No. 28,707	Schuman, Mark D.	Reg. No. 31,197
Doscotch, Matthew A.	Reg. No. 48,957	Schumann, Michael D.	Reg. No. 30,422
Edell, Robert T.	Reg. No. 20,187	Scull, Timothy B.	Reg. No. 42,137
Epp Ryan, Sandra	Reg. No. 39,667	Sebald, Gregory A.	Reg. No. 33,280
Fitzsimmons, Karen A.	Reg. No. 50,470	Skoog, Mark T.	Reg. No. 40,178
Gadiano, Christina M.	Reg. No. 37,628	Sorge, Keith M.	Reg. No. 50,865
Gaffney, Matthew M.	Reg. No. 46,717	Stewart, Alan R.	Reg. No. 47,974
Goggin, Matthew J.	Reg. No. 44,125	Stoll-DeBell, Kirstin L.	Reg. No. 43,164
Golla, Charles E.	Reg. No. 26,896	Sullivan, Timothy	Reg. No. 47,981
Gorman, Alan G.	Reg. No. 38,472	Swenson, Erik G.	Reg. No. 45,147
Gotfredson, Garen J.	Reg. No. 44,722	Tellekson, David K.	Reg. No. 32,314
Gould, John D.	Reg. No. 18,223	Trembath, Jon R.	Reg. No. 38,344
Gregson, Richard	Reg. No. 41,804	Tunheim, Marcia A.	Reg. No. 42,189
Gresens, John J.	Reg. No. 33,112	Underhill, Albert L.	Reg. No. 27,403
Haack, John L.	Reg. No. 36,154	Vidovich, Kristin K.	Reg. No. 41,448
Hamre, Curtis B.	Reg. No. 29,165	Wahl, John R.	Reg. No. 33,044
Hennings, Mark	Reg. No. 48,982	Welter, Paul A.	Reg. No. 20,890
Hertzberg, Brett A.	Reg. No. 42,660	Whitaker, John E.	Reg. No. 42,222
Hillson, Randall A.	Reg. No. 31,838	Wiegand, Jamie	Reg. No. 52,361
Hope, Leonard J.	Reg. No. 44,774	Wier, David D.	Reg. No. 48,229
Hornsby, III, Alton	Reg. No. 47,299	Williams, Douglas J.	Reg. No. 27,054
Jacobson, Charles A.	Reg. No. 53,061	Withers, James D.	Reg. No. 40,376
Johns, Nicholas P.	Reg. No. 48,995	Wong, Bryan A.	Reg. No. 50,836
Johnston, Scott W.	Reg. No. 39,721	Wong, Thomas S.	Reg. No. 48,577
Kalinsky, Robert A.	Reg. No. 50,471	Xia, Tim Tingkang	Reg. No. 45,242
Kelly, Zachary J.	Reg. No. 53,108	Zeuli, Anthony R.	Reg. No. 45,255
Kettelberger, Denise	Reg. No. 33,924		
Keys, Jeramie J.	Reg. No. 42,724		
Knearl, Homer L.	Reg. No. 21,197		
Korver, Joshua W.	Reg. No. 51,894		
Kowalchyk, Alan W.	Reg. No. 31,535		
Kowalchyk, Katherine M.	Reg. No. 36,848		
Lamberty, Michael	Reg. No. 50,760		
Larson, James A.	Reg. No. 40,443		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant & Gould P.C. to the contrary.

I understand that the execution of this document, and the grant of a power of attorney, does not in itself establish an attorney-client relationship between the undersigned and the law firm Merchant & Gould P.C., or any of its attorneys. Please direct all correspondence in this case to Merchant & Gould P.C. at the address indicated below:

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

100 2	Full Name Of Inventor	Family Name <u>SHIONO</u>	First Given Name <u>Teruhiro</u>	Second Given Name
0	Residence & Citizenship	City Osaka-shi <u>JPX</u>	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
1	Mailing Address	Address 2-50, Nagayoshi-rokutan 4-chome, Hirano-ku	City Osaka-shi	State & Zip Code/Country Osaka 547-0012/ Japan
Signature of Inventor 201: <u>Teruhiko Shiono</u>			Date:	<u>October 6, 2004</u>
200 3	Full Name Of Inventor	Family Name <u>YAMAMOTO</u>	First Given Name <u>Hiroaki</u>	Second Given Name
0	Residence & Citizenship	City Kawabe-gun <u>JPX</u>	State or Foreign Country Hyogo, Japan	Country of Citizenship Japan
2	Mailing Address	Address 98-8, Shirogane 1-chome, Inagawa-cho	City Kawabe-gun	State & Zip Code/Country Hyogo 666-0257/ Japan
Signature of Inventor 202: <u>Hiroaki Yamamoto</u>			Date:	<u>October 6, 2004</u>
200 3	Full Name Of Inventor	Family Name <u>NISHINO</u>	First Given Name <u>Seiji</u>	Second Given Name
0	Residence & Citizenship	City Osaka-shi <u>JPX</u>	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
3	Mailing Address	Address 11-15, Kitabatake 2-chome, Abeno-ku	City Osaka-shi	State & Zip Code/Country Osaka 545-0035/ Japan
Signature of Inventor 203: <u>Seiji Nishino</u>			Date:	<u>October 6, 2004</u>
200 4	Full Name Of Inventor	Family Name <u>MITSUJU</u>	First Given Name <u>Tsuneo</u>	Second Given Name
0	Residence & Citizenship	City Hirakata-shi <u>JPX</u>	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
4	Mailing Address	Address 4-1-1-312, Nishimakino	City Hirakata-shi	State & Zip Code/Country Osaka 573-1148/ Japan
Signature of Inventor 204: <u>Tsuneo Mitsuju</u>			Date:	<u>October 6, 2004</u>

2	Full Name Of Inventor	Family Name ITO	First Given Name Tatsuo	Second Given Name
0	Residence & Citizenship	City Osaka-shi <i>JPX</i>	State or Foreign Country Osaka, Japan	Country of Citizenship Japan
5	Mailing Address	Address 7-6, Uriwari 1-chome, Hirano-ku	City Osaka-shi	State & Zip Code/Country Osaka 547-0024/ Japan
Signature of Inventor 205: <i>He Tatsuo</i>			Date:	<i>October 6, 2004</i>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: SHIONO et al.

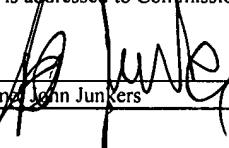
Filed: December 17, 2004 Docket No.: 10873.1549USWO

Title: INFORMATION RECORDING MEDIUM AND METHOD FOR PRODUCING THE SAME, AND OPTICAL INFORMATION RECORDING AND REPRODUCING APPARATUS

CERTIFICATE UNDER 37 CFR 1.10:

"Express Mail" mailing label number: EV 495867770 US
 Date of Deposit: December 17, 2004

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450.

By: 
 Name: John Junkers

COMMUNICATION UNDER 37 C.F.R. §1.32(c)(3)

Mail Stop PCT
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. §1.32 (c)(3) please appoint the following 10 practitioners named in the Power of Attorney to be recognized by the U.S. Patent Office as being of record in the above-identified application:

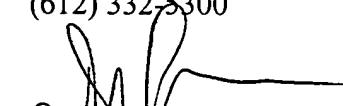
Brian H. Batzli (32,960)
 John A. Clifford (30,247)
 John J. Gresens (33,112)
 Curtis B. Hamre (29,165)
 Robert A. Kalinsky (50,471)

James A. Larson (40,443)
 Douglas P. Mueller (30,300)
 Joshua N. Randall (50,719)
 Michael D. Schumann (30,422)
 Gregory A. Sebald (33,280)

The undersigned was named on the Power of Attorney.

Respectfully submitted,

MERCHANT & GOULD P.C.
 P.O. Box 2903
 Minneapolis, Minnesota 55402-0903
 (612) 332-5300

By 
 Douglas P. Mueller
 Reg. No. 30,300

Dated: December 17, 2004

DPM/jh

23552
PATENT TRADEMARK OFFICE

Correspondence Information

Correspondence Customer Number:: 23552

Representative Information

Representative Customer Number::	23552
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Domestic Priority Information

Application::	Continuation Type::	Parent Application::	Parent Filing Date::
This application is a	National Stage of	PCT/JP2003/011172	September 1, 2003

Foreign Priority Information

Country::	Application Number::	Filing Date::	Priority Claimed::
Japan	2002-301601	October 16, 2002	Yes

Assignee Information

Assignee Name:: MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.
Street of mailing address:: 1006, Oaza Kadoma
City of mailing address:: Kadoma-shi
State or Province of mailing address:: Osaka
Country of mailing address:: Japan
Postal or Zip Code of mailing address:: 571-8501

Initial December 17, 2004